

FORM SUMMARY

Name of Forms: **Petition for Appointment of Counsel, Affidavit of Indigency and Order**

Form Number: **GF-152**

Statutory Reference: United States Constitution, Amendment 6; Wisconsin Constitution Article 1, §7; Supreme Court Order 93-15, §§48.23; 51.20(3), 814.29, 977.08(3), Wisconsin Statutes

Purpose of Form: This petition and affidavit is to be completed by an individual seeking appointment of counsel at county expense after having been deemed not indigent under state public defender guidelines. The court will use the Court Order section to grant or deny the relief. RMC anticipates that this form can be used to appoint counsel for persons in many different types of cases, including defendants in criminal matters, parents in CHIPS or TPR cases, subjects of involuntary mental commitment proceedings, or other proceedings. It uses the same standards and format established for the affidavits of indigency found in form CV-410.

Who Completes It: The party seeking the indigency determination will complete the affidavit. The judge will complete the Court Order portion after reviewing the affidavit.

Distribution of Form: Original to court. Copy to district attorney and attorney appointed. The party seeking the indigency determination will probably keep a copy.

Accompanying Forms: Generally none, except some courts may require a copy of the appropriate pleadings (criminal complaint, petition for mental commitment, CHIPS petition, etc.) to be attached to the petition in order to assist in making a determination of the probable costs of representation.

New Form/Modification: Modification, last update 11/99.

Modifications: Added line under signature for petitioner's address.

Comments: Although a person may not meet state public defender guidelines for appointment of counsel, or the state public defender may be prohibited from appointing counsel, there may still be constitutional or other considerations why counsel should be appointed at county

expense. This form allows the person to petition the court for appointment of counsel, complete an affidavit of indigency and deliver it to court. The court would review the affidavit and make a determination of indigency and appoint counsel if appropriate. If counsel is appointed, the court must:

- designate the attorney to be appointed and the payment rate for the attorney (SPD rates or other), and,
- make a determination of whether the county should be reimbursed for the costs of that appointment and the schedule of payments that should be made.

The court may deny the request if:

- The person is not indigent (including if the affidavit is deemed to be untrue), or
- Other reasons. For example, in *Joni B. v. State*, 202 Wis.2d 1, 549 N.W.2d 411 (1996), the court set standards for determining the appropriateness of appointing counsel for parents in CHIPS cases.

About this form:

This form is the product of the Wisconsin Records Management Committee, a committee of the Director of State Court's Office and a mandate of the Wisconsin Judicial Conference.

If you have additional information that does not change the meaning of the form, attach it on a separate page. The form itself shall not be altered.